

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MARK JAFFE,

Plaintiff,

Case No. 1:22-cv-13157

v.

Honorable Thomas L. Ludington
United States District Judge

THE TRAVELERS COMPANIES, INC., and
BRIGHTHOUSE LIFE INSURANCE CO.,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING
DEFENDANT’S MOTIONS TO DISMISS**

In July 2022, Plaintiff Mark Jaffe sued Travelers Companies in Bay County Circuit Court. ECF No. 1-4 at PageID.27–29. Plaintiff alleges Travelers has not paid the monthly benefit amount it is obligated to pay under the relevant annuity contract. *Id.* Four months later, Plaintiff filed an amended complaint, adding Brighthouse Life Insurance as Travelers’s “successor in interest,” and then Brighthouse removed the case here. ECF No. 1.

Three weeks later, Brighthouse filed a motion to dismiss, arguing Plaintiff’s claims were barred by the applicable statute of limitations. ECF No. 6 at PageID.76–77. Plaintiff added one count of unjust enrichment in a second amended complaint. ECF No. 9. In response, Brighthouse filed a second motion to dismiss, raising the arguments from its first motion to dismiss and newly arguing that the unjust-enrichment claim is barred by the express contract and the applicable statute of limitations. *Compare* ECF No. 6, *with* ECF No. 15. Travelers concurred with Brighthouse’s arguments. ECF No. 19. The motions to dismiss were referred to Magistrate Judge Patricia T. Morris for a report and recommendation. ECF Nos. 13; 16.

On April 5, 2023, Judge Morris issued a report recommending that Brighthouse’s motions to dismiss be denied because (1) Plaintiff “made a plausible claim that the statute of limitations should be tolled,” (2) the existence of a contract has not been established to warrant dismissal of the unjust-enrichment claim, and (3) the first motion was moot. ECF No. 20. Brighthouse filed three objections, ECF No. 21, and Plaintiff responded to them the next day, ECF No. 22.

When a party objects to a magistrate judge’s report, the court must review *de novo* those portions of the report to which the plaintiff has properly objected. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(3). To that end, the court must review at least the evidence that was before the magistrate judge. *See Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). After reviewing the evidence, the court may accept, reject, or modify the magistrate judge’s findings or recommendations. FED. R. CIV. P. 72(b)(3); *Peek v. Comm’r of Soc. Sec.*, 585 F.Supp.3d 1014, 1017–18 (E.D. Mich. 2021). If the court will adopt the report, then it may simply “state that it engaged in a de novo review of the record and adopts the report and recommendation” without “stat[ing] with specificity what it reviewed.” *United States v. Robinson*, 366 F. Supp. 2d 498, 505 (E.D. Mich. 2005) (first citing *Lardie v. Birkett*, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002); and then citing 12 CHARLES A. WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 3070.2 (2d ed. 1997)), *aff’d*, 290 F. App’x 769 (6th Cir. 2008); *e.g.*, *Hereford v. Warren*, 486 F. Supp. 2d 659, 660–61 (E.D. Mich. 2007), *rev’d and remanded on other grounds*, 536 F.3d 523 (6th Cir. 2008).

This Court has reviewed Plaintiff’s complaints, ECF Nos. 1-1; 9, Brighthouse’s motions, ECF Nos. 6; 15, Plaintiff’s response, ECF No. 18, Travelers’s response, ECF No. 19, Judge Morris’s report and recommendation, ECF No. 20, Brighthouse’s objections, ECF No. 21, Plaintiff’s response to the objections, ECF No. 22, and all other applicable filings. Having

conducted this *de novo* review, this Court concludes that Judge Morris's factual conclusions are correct and that her legal reasoning is sound.

Accordingly, it is **ORDERED** that Defendant's Objections to Judge Morris's Report and Recommendation, ECF No. 21, are **OVERRULED**.

Further, it is **ORDERED** that Judge Morris's Report and Recommendation, ECF No. 20, is **ADOPTED**.

Further, it is **ORDERED** that Defendant Brighthouse's Motion to Dismiss, ECF No. 15, is **DENIED**.

Further, it is **ORDERED** that Defendant Brighthouse's Motion to Dismiss, ECF No. 6, is **DENIED AS MOOT**.

This is not a final order and does not close the above-captioned case.

Dated: May 4, 2023

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge